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contd

9. The stabilized, bromine-based biocide of Claim 6, wherein the process includes the step of adding bromine chloride in sufficient amount to obtain an active bromine content of at least about 100,000 PPM (wt/wt) and the atom ratio of nitrogen to active bromine is greater than 0.93.

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10. A method for control of bacteria, algae and mollusks in a water system comprising introducing <sup>in the system</sup> the stabilized, bromine-based biocide of Claim 1.

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### REMARKS

New Claims 6-10 are submitted under 37 C.F.R. §1.607 in order to have an interference declared between the subject application and U.S. Patent No. 6,287,473 (" '473 patent") and any pending continuation or divisional thereof. A copy of the '473 patent is provided herewith for the Examiner's convenience.

Pursuant to 37 C.F.R. §1.607(a)(2), applicants present the following proposed count:

A stabilized concentrated biocidal composition selected from the group consisting of the compositions according to Claim 6 of Application No. 09/785,890 and Claim 1 of U.S. Patent No. 6,287,473.

Applicants submit that Claims 1-13 of the '473 patent correspond to the proposed count. Claims 6 to 10 of the instant application correspond to the count and are supported by the specifications as follows:

6. A stabilized, bromine-based biocide prepared by adding bromine chloride to an overbased, alkali metal sulfamate solution formed from water, sulfamic acid and alkali metal base, and cooling the solution.

Page 8, lines 8-9 states that a stabilized bromine-based biocide is produced

Page 7, lines 10-15, describes mixing bromine chloride with an aqueous alkali metal sulfamate solution. Figure 1 describes the sulfamate solution as overbased. See also, Page 12, lines 8-9, where the pH of the solution is preferably from about 13.0 to about 14.0, which is certainly overbased.

Page 12, lines 14-16 describe cooling the solution.
7. The stabilized, bromine-based biocide of claim 7 wherein the process includes the step of cooling the solution so that the temperature is from about 25°C to about 40°C.

Page 5, lines 3-7, and page 12, lines 4-7, describe maintaining the solution temperature from 25°C to about 40°C.
8. The stabilized, bromine-based biocide composition of claim 6 wherein the pH of the solution is from about 13.0 to about 13.7.

Page 9, lines 20-21, describes maintaining the pH of the solution preferably from about 13.0 to about 13.7.
9. The stabilized, bromine-based biocide of claim 6, wherein the process includes the step of adding bromine chloride in sufficient amount to obtain an active bromine content of at least about 100,000 PPM (wt/wt) and the atom a ratio of nitrogen to active bromine is greater than 0.93.

Page 4, lines 16-24, describes a bromine-based biocide having these characteristics.
10. A method for control of bacteria, algae and mollusks in a water system comprising introducing the stabilized, bromine-based biocide of claim 1.

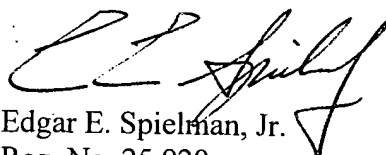
Page 1, lines 8-13, states that bromine-based biocides are used to effect control of bacteria, algae and mollusks in water system such as cooling water and waste treatment systems.

As indicated above, Claims 6 to 10 find clear support in the present application. In addition, each corresponds to the count, as do each of the claims of the '473 patent. Although

slightly different terminology is used in the application and the '473 patent, both disclose the same patentable invention -- a stabilized, bromine-based biocide prepared by adding bromine chloride to a caustic solution containing a halogen stabilizer. Applicants note that, as presently worded, all of the claims of the '473 patent are invalid under 35 U.S.C. §112, ¶1, because the caustic solution recited in the first paragraph of independent Claims 1 and 12 (Column 5, lines 31-39 and Column 6, lines 36-41) cannot simultaneously contain an alkali or alkaline earth hydroxide and an acid stabilizer (e.g., sulfamic acid), yet such an anomaly is expressly permitted by several of the choices for the "halogen stabilizer" recited in Claim 1 and Claim 12. If these infirmities in the '473 claims are corrected, for example, in a reissue application or a continuing application to specify an invention that is physically possible and supported by the '473 specification, then a reissue of the '473 patent will claim the same patentable invention as is claimed in the instant application.

Since applicants have an effective filing date of November 30, 1999, based on parent Application No. 09/451,344, they are entitled to priority over the '473 patent, which is entitled to a filing date no earlier than March 3, 2000.

Respectfully submitted,



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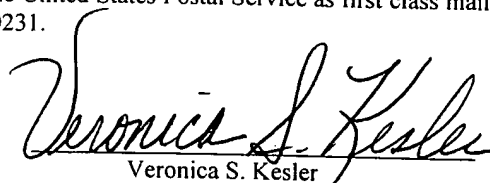
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CERTIFICATE OF MAILING

I hereby certify that in accordance with the standard business practice, this paper (along with any referred to as being attached or enclosed) is to be deposited on the date shown below with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, Washington, DC 20231.

3/13/2002  
Date



Veronica S. Kesler